

REMARKS

The Office Action dated August 2, 2004, has been received and carefully considered. In this response, claims 30-33 have been added, and claims 1, 9, 17 and 22 have been amended. Entry of added claims 30-33 and the amendments to claims 1, 9, 17 and 22 is respectfully requested. Newly added claims 30-33 do not recite new matter and therefore do not require a new search. Claim 30-32, for example, recite subject matter from claim 18, and claim 33 recites subject matter from claim 1.

Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following amendments and remarks, which are believed to place the above-identified patent application in condition for allowance or in better form for consideration on appeal.

I. THE ANTICIPATION REJECTION OF CLAIMS 1-19 and 21-29

On page 3 of the Office Action, claims 1-19 and 21-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Youngs et al. (U.S. Patent No. 6,600,918). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished).

Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id..

Regarding claims 1 and 9, the Examiner asserts that Youngs et al. discloses "a method and an apparatus for broadcasting radio programming, TV shows, Internet, and etc. (sic) over a cellular transmission network (see column 3, lines 10), comprising: [p]roviding radio programming in an appropriate format; [e]nabling the radio programming to be accessible over a processor based network and wherein the processor based network is connectable to a cellular transmission network; and transmitting the radio programming over the cellular transmission network and receiving radio programming (see Figure 1, column 3, lines 5-29)."

Notwithstanding Applicant's arguments of May 25, 2004, the Examiner maintains her position that Youngs et al. teaches or suggests "enabling the radio programming to be accessible over a processor based network, wherein the processor based network is connectable to a cellular transmission network." In particular, the Examiner asserts that Youngs et al. "teaches that MSC in (sic) which associates with WSLR (see figure 1) process information between the media services, such as TV and radio and the wireless network." The Examiner also asserts that

"[a]lthough Youngs reference does not explicitly show a component or an interface that transfer any handset requested media programs such as radio or Internet, there must be at least a software program to convert the media programs format to the accessible and acceptable wireless application format if such media programs is indirectly through the wireless network."

Applicant has amended claim 1 to incorporate limitations from dependent claims 26 namely: verifying that the radio programming is in the appropriate format. Applicant respectfully submits that Youngs et al. does not teach or suggest the step of verifying that the radio programming is in the appropriate format, as expressly recited in claim 1.

To the extent the Examiner asserts that Youngs et al. inherently discloses the conversion step, as apparently is the case with Claim 17, Applicant refers the Examiner to MPEP § 2112 which states that "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the

inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Applicant respectfully submits that the Examiner has not set forth a proper inherency argument, and thus requests that the rejection of claim 17 and 26-29 be withdrawn.

Claim 9, a system claim corresponding to the method of claim 1, has been amended in the same manner and is therefore allowable for the same reasons as claim 1.

Regarding claims 17 and 26-29¹, the Examiner asserts that Youngs et al. discloses "an access device, MSC, for enabling radio programming to be accessible over a processor-based network, a wireless network, the access device comprising: [a]n input for receiving radio programming (see Figure 1), inherently a converter for converting the radio programming to an appropriate format and a delivery module, a base station control that delivers the radio programming to a cellular transmission network." (emphasis added).

Applicant has amended Claim 17 to recite a "verification module for verifying that the radio programming is in the appropriate format." Applicant respectfully submits that Youngs et al. does not teach or suggest verification module for verifying that the radio programming is in the appropriate

¹ Applicants note that the Examiner has not addressed the specific limitations of claims 26-29.

format. Further, Applicant respectfully submits the Examiner's apparent inherency argument is improper as explained above in connection with claim 1.

Regarding claim 22, the Examiner asserts that Youngs et al. "discloses a receiver (see figure 1 and item 32f), the receiver comprising: an input for receiving the radio programming signal; an audio output for delivering an audible portion of the radio programming signal; and a display for displaying a visible portion of the radio programming signal (see column 3 and lines 5-15)."

Applicant has nonetheless amended claim 22 to clarify that the input receives the radio programming signal "from a processor based data network through the cellular transmission network." Applicant respectfully submits that Youngs et al. does not teach or suggest an input that receives a radio program signal from a processor based data network through the cellular transmission network.

Each of claims 2-8, 10-16, 18-21 and 23-32 is dependent upon independent claim 1, 9, 17, or 22. Thus, since independent claims 1, 9, 17 and 22 should be allowable as discussed above, claims 2-8, 10-16, 18-21, and 23-32 should also be allowable at least by virtue of their dependency on independent claim 1, 9, 17, or 22. Moreover, these claims recite additional features

which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 29 recites "wherein a broadcast gateway forwards the radio programming to the processor based network." Applicant respectfully submits that Youngs et al. does not teach or suggest a broadcast gateway forwards the radio programming to the processor based network, as expressly recited in claim 29.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-19 and 21-29 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIM 20

On page 5 of the Office Action, claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Youngs et al. in view of Enzmann et al. (U.S. Patent No. 6,516,203).

With respect to claim 20, the Examiner states that "Youngs doesn't expressly teach that the broadcast system further comprises a signal compressor for compressing a signal associated with the radio programming received as input and an encoder for encoding the signal." However, the Examiner asserts that "Enzmann et al. teaches utilizing wireless Application Protocol to interface from the wireless system to the Internet." The Examiner also asserts that "it would have been obvious to

one of the ordinary skill in the art at the time the invention was made to compress and encode an input signal with the broadcasting system such that the wireless communication system is able to adapt the signal from other media and broadcast it in its own domain."

Applicant respectfully submits that the pending obviousness rejection of claim 20 is overcome by the arguments presented above in connection with claim 17, from which claim 20 depends.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claim 20 be withdrawn.

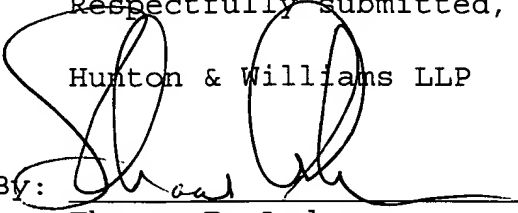
III. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Patent Application
Attorney Docket No.: 56130.000066
Client Reference No.: 13259ROUS01U

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

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Date: January 18, 2005

APPENDIX A

1. (Currently Amended) A method for broadcasting radio programming over a cellular transmission network, the method comprising:

providing radio programming in an appropriate format;

verifying that the radio programming is in the appropriate format;

enabling the radio programming to be accessible over a processor based network, wherein the processor based network is connectable to a cellular transmission network; and

transmitting the radio programming over the cellular transmission network.

2. (Original) The method of claim 1, further comprising:
receiving the radio programming.

3. (Original) The method of claim 2, further comprising:
receiving the radio programming with a decoder receiver.

4. (Original) The method of claim 1, wherein the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprises:

transmitting advertising information over at least one of the plurality of channels.

5. (Original) The method of claim 4, wherein the step of transmitting advertising information further comprises:

transmitting the advertising information in a format that is displayable as a visual display.

6. (Original) The method of claim 1, wherein the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprises:

transmitting other information over at least one of the plurality of channels.

7. (Original) The method of claim 6, wherein the step of transmitting other information further comprises:

transmitting the other information in a format that is displayable as a visual display.

8. (Original) The method of claim 1, wherein the step of providing radio programming in an appropriate format further comprises:

accessing a radio station over the Internet.

9. (Currently Amended) A system for broadcasting a radio program over a cellular transmission network, the system comprising:

a source for providing radio programming in an appropriate format;

an access device for: verifying that the radio programming is in the appropriate format; (2) enabling the radio programming to be accessible over a processor based network, wherein the processor based network is connectable to a cellular transmission network; and

a transmitter for transmitting the radio programming over the cellular transmission network.

10. (Original) The system of claim 9, further comprising:

a receiver for receiving the radio programming.

11. (Original) The system of claim 10, wherein the receiver further comprises:

a decoder receiver for receiving the radio programming.

12. (Original) The system of claim 9, wherein the cellular transmission network transmits signals over a plurality of channels and the radio programming further comprises:

advertising information that is transmitted over at least one of the plurality of channels.

13. (Original) The system of claim 12, wherein the advertising information further comprises:

advertising information in a format that is displayable as a visual display.

14. (Original) The system of claim 9, wherein the cellular transmission network transmits signals over a plurality of channels and the radio programming further comprises:

other information transmitted over at least one of the plurality of channels.

15. (Original) The system of claim 14, wherein the other information further comprises:

information in a format that is displayable as a visual display.

16. (Original) The system of claim 9, wherein the source of providing radio programming further comprises:

a source for accessing a radio station over the Internet.

17. (**Currently Amended**) An access device for enabling radio programming to be accessible over a processor based network, the

access device comprising:

an input for receiving radio programming;

a verification module for verifying that the radio programming is in an appropriate format;

a converter for converting the radio programming to an appropriate format; and

a delivery module that delivers the radio programming to a cellular transmission network.

18. (Original) The access device of claim 17, wherein the processor based network is the Internet.

19. (Original) The access device of claim 17, wherein the input further comprises:

an over-air radio broadcast receiver.

20. (Original) The access device of claim 17, further comprising:

a signal compressor for compressing a signal associated with the radio programming received as input; and

an encoder for encoding the signal.

21. (Original) The access device of claim 17, further

comprising:

an additional input for receiving additional cellular transmission network signals.

22. (Currently Amended) A receiver for receiving a radio programming signal broadcast over a cellular transmission network, the receiver comprising:

an input for receiving the radio programming signal from a processor based data network through the cellular transmission network;

an audio output for delivering an audible portion of the radio programming signal; and

a display for displaying a visible portion of the radio programming signal.

23. (Original) The receiver of claim 22 further comprising:
a decoder for decoding the radio programming signal.

24. (Original) The receiver of claim 22 further comprising:

a decompressor for decompressing the radio programming signal.

25. (Original) The receiver of claim 22 further comprising:

an additional input for receiving additional cellular transmission signals.

26. (Previously Presented) The method of claim 1 wherein a broadcast gateway verifies that the radio programming is in an appropriate format.

27. (Previously Presented) The method of claim 1 wherein a broadcast gateway converts the radio programming to an appropriate format.

28. (Previously Presented) The method of claim 1 wherein a broadcast gateway forwards the radio programming to the processor based network.

29. (Previously Presented) The access device of claim 17 further comprising a verification module for verifying that the radio programming is in an appropriate format.

30. (**Newly**) The method of claim 1 wherein the processor based network comprises the Internet.

31. (**Newly**) The system of claim 9 wherein the processor based network comprises the Internet.

32. (**Newly**) The receiver of claim 22 wherein the processor based network comprises the Internet.

33. **(Newly)** A method for broadcasting radio programming over a cellular transmission network, the method comprising:

receiving radio programming from a radio programming source through a processor based data network;

verifying that the radio programming is in an appropriate format for transmission by a cellular transmission network;

converting the radio programming to an appropriate format if the radio programming is not verified; and

forwarding the radio programming to the processor based data network for subsequent access and transmission by the cellular transmission network.